

EXHIBIT 5

TO DECLARATION OF STEVEN JOHN MOSER DATED 12/23/2022

ALVAREZ ET AL. V. KELCO CONSTRUCTION, INC. ET AL., 21-CV-9014 (PAE)(SDA)

48. Answering Paragraph 48 of the Complaint, Defendants deny the allegations contained in the Paragraph.

49. Answering Paragraph 49 of the Complaint, Defendants admit the allegations contained in the Paragraph.

50. Answering Paragraph 50 of the Complaint, Defendants admit the allegations contained in the Paragraph.

51. Answering Paragraph 51 of the Complaint, admit the allegations contained in the Paragraph.

52. Answering Paragraph 52 of the Complaint, Defendants admit the allegations contained in the Paragraph.

53. Answering Paragraph 53 of the Complaint, Defendants submit that no answer is required because the Paragraph constitutes legal assertions or conclusions. To the extent a response is required, Defendants deny the allegations contained in the Paragraph.

54. Answering Paragraph 54 of the Complaint, Defendants deny the allegations contained in the Paragraph, except admit that John Provenzano had the authority to hire and fire ELM's employees.

55. Answering Paragraph 55 of the Complaint, Defendants submit that no answer is required because the Paragraph constitutes legal assertions or conclusions. To the extent a response is required, Defendants deny the allegations contained in the Paragraph.

56. Answering Paragraph 56 of the Complaint, Defendants submit that no answer is required because the Paragraph constitutes legal assertions or conclusions. To the extent a response is required, Defendants deny the allegations contained in the Paragraph.